

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2007-KA-00854-COA

RAY CULLENS

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

DATE OF JUDGMENT: 02/09/2007
TRIAL JUDGE: HON. PAUL S. FUNDERBURK
COURT FROM WHICH APPEALED: LEE COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANT: W. DANIEL HINCHCLIFF
LESLIE S. LEE
ATTORNEY FOR APPELLEE: OFFICE OF THE ATTORNEY GENERAL
BY: JEFFREY A. KLINGFUSS
DISTRICT ATTORNEY: JOHN RICHARD YOUNG
NATURE OF THE CASE: CRIMINAL - FELONY
TRIAL COURT DISPOSITION: CONVICTED OF COUNT I, KIDNAPPING,
AND SENTENCED TO TWENTY YEARS,
AND COUNT II, AGGRAVATED ASSAULT,
AND SENTENCED TO TWENTY YEARS,
WITH SENTENCES TO RUN
CONCURRENTLY AND WITH FIVE
YEARS SUSPENDED FOR EACH COUNT,
ALL IN THE CUSTODY OF THE
MISSISSIPPI DEPARTMENT OF
CORRECTIONS
DISPOSITION: AFFIRMED-09/23/2008
MOTION FOR REHEARING FILED:
MANDATE ISSUED:

BEFORE LEE, P.J., ROBERTS AND CARLTON, JJ.

CARLTON, J., FOR THE COURT:

¶1. Ray Cullens was indicted by a Lee County grand jury on July 19, 2005, for the

kidnapping and aggravated assault of Jesus Rodriguez. After a jury trial in the Lee County Circuit Court, Cullens was convicted of both crimes. He was sentenced to serve twenty years in the custody of the Mississippi Department of Corrections on each count, with five years suspended, and the sentences to be served concurrently. Cullens now appeals his convictions and sentences. No issue has been raised before this Court on appeal; therefore, we affirm.

FACTS

¶2. On April 9, 2005, Rodriguez was visiting with neighbors in the Shannon Trailer Park, in the home of Pamela Keck. After a while, Tamara Talley and Ladana Scruggs came over to get beer. They asked Rodriguez to leave with them to go back to Tamara's trailer, which was directly behind Keck's home. Rodriguez and the women left Keck's home and went to the home of Tamara and James Talley (Talley). At some point after the group went to Talley's residence, Talley hit Rodriguez, rendering him unconscious. Rodriguez does not know what Talley used to hit him. While he was unconscious, the defendant, Cullens, who was also at the residence, cut and stabbed Rodriguez. Talley and Cullens loaded Rodriguez into a van and drove away from the trailer park.

¶3. While they were riding in the van, Rodriguez regained consciousness. Cullens then proceeded to beat and stab Rodriguez again as Talley continued to drive. Talley stopped at a dead-end road in Nettleton, and Cullens threw Rodriguez out of the van. Talley and Cullens left Rodriguez there and drove back home.

¶4. Rodriguez was able to walk to a nearby home and ask for help. A Nettleton police officer took Rodriguez to a Texaco station, where they met Officer Renaud Perry of the Shannon Police Department. Perry called for an ambulance to take Rodriguez for treatment

at a nearby hospital.

¶5. Talley and Cullens were arrested early the next morning and charged with aggravated assault and kidnapping. Talley later pleaded guilty to both crimes; he testified against Cullens at trial. Cullens was convicted by a jury and sentenced to serve twenty years in the custody of the Mississippi Department of Corrections on each count, with five years suspended on each, and the sentences to be served concurrently.

DISCUSSION

¶6. Cullens is represented on appeal by the Mississippi Office of Indigent Appeals. His counsel, W. Daniel Hinchcliff, stated in his brief, in accordance with *Lindsey v. State*, 939 So. 2d 743, 748 (¶18) (Miss. 2005), that he had diligently searched the procedural and factual history of the case and scoured the record, but he was unable to find any arguable issue to present to the Court. Out of an abundance of caution, this Court entered an order granting Cullens an additional forty days to file a pro se brief in support of his appeal. Cullens's brief was due August 11, 2008. He did not file a brief. This Court must now consider Cullens's case on its merits and render a decision. *See id.*

¶7. We have reviewed the record in this case carefully, and we find no arguable issue to warrant reversal of Cullens's conviction. *See Eaton v. State*, 913 So. 2d 413, 416 (¶6) (Miss. Ct. App. 2005). Therefore, we affirm Cullens's convictions and sentences.

¶8. THE JUDGMENT OF THE LEE COUNTY CIRCUIT COURT OF CONVICTION OF COUNT I, KIDNAPPING, AND SENTENCE OF TWENTY YEARS, AND COUNT II, AGGRAVATED ASSAULT, AND SENTENCE OF TWENTY YEARS, WITH SENTENCES TO RUN CONCURRENTLY AND WITH FIVE YEARS SUSPENDED FOR EACH COUNT, ALL IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS, IS AFFIRMED. ALL COSTS OF THIS APPEAL ARE ASSESSED TO LEE COUNTY.

**KING, C.J., LEE AND MYERS, P.JJ., IRVING, CHANDLER, GRIFFIS,
BARNES, ISHEE AND ROBERTS, JJ., CONCUR.**